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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,709	07/08/2005	Hiroyuki Umeda	05328/LH	9836
1933 7590 03/23/2009 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
MILLER, BENA B				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
03/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,709

Applicant(s)

UMEDA ET AL.

Examiner

Bena Miller

Art Unit

3725

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13, 15, 16, 18, 20, 21, 23-27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13, 15, 16, 18, 20, 21, 23-27 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because: It does not identify the citizenship of each inventor. It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration. The full name of each inventor (family name and at least one given name together with any initial) has not been set forth. It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-13, 15, 16, 18, 20, 21, 23-27 and 29 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Masamichi et al (JP170075) in view of Admitted Prior Art (APA; JP009318).

Masamichi teaches most of the elements of the claimed invention including a drive unit provided between the rotary crushing device and the conveyer (fig.1), an operation panel (7) and a swinging mechanism (32) having a swinging restriction (32a). However, Masamichi fails to teach a rotary tab, a scattering prevention cover, a screen member and the scattering prevention cover is arranged relative to the charging opening such that a part of the charging opening not covered by the scattering prevention cover opens in a direction opposite to an extending and crushed wood chip transfer and discharge direction of the conveyer. The APA solves this problem by disclosing a similar apparatus having a tab-type feeder which includes a rotary tab and a scattering prevention cover and further includes a screen provided between the crushing device and conveyor (see pages 1-3 of the disclosed specification). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the claimed features, as suggested by APA, in the device of Masamichi et al for the purpose of producing chips from crushed wood. Masamichi teaches that it is known to tilt a processing device (i.e., crushing device) in an opposite direction to a conveyor (fig.12). Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the scattering prevention as claimed, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Further, Masamichi et al fails to teach the cooling air inlet section is covered with a covering device. It would have been obvious to one of ordinary skill in the art to provide a covering for the cooling air inlet of Masamichi for the purpose of preventing

injury to an operator. Also, the examiner takes the position that **when** the tab-type feeder is in a posture for working, the device would meet the claimed structure.

Claims 1, 3-13, 15, 16, 18, 20, 21, 23-27 and 29 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Admitted Prior Art (APA; JP009318) in view of Masamichi et al (JP170075).

The APA teaches most of elements of the claimed invention including a swinging mechanism having a swinging restricting section (6 and 4, respectively). However, APA fails to teach the drive unit provided between the rotary crushing device and the conveyor and the scattering prevention cover is arranged relative to the charging opening such that a part of the charging opening not covered by the scattering prevention cover opens in a direction opposite to an extending and crushed wood chip transfer and discharge direction of the conveyor. Masamichi et al solves this problem by disclosing a similar device having the drive unit provided between the rotary crushing device and the conveyor as seen in figure 1. Masamichi further teaches that it is known to tilt a processing device (i.e., crushing device) in an opposite direction to a conveyor (fig.12). Therefore, it would have been obvious to one of ordinary skill in the art to arrange the scattering cover as claimed and suggested by Masamichi for the purpose of providing an easier access, by an operator, to components located therein. It would have been obvious to one of ordinary skill in the art to arrange the device of APA in the claimed position, as suggested by Masamichi et al for the purpose of providing a more accurate view of the area of the charging port of the hopper seen from the charging direction.

Response to Arguments

Applicant's arguments filed 01/27/09 have been fully considered but they are not persuasive. In response to applicant's remarks, the applicant's attention is directed to the rejection noted above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bena Miller/
Primary Examiner, Art Unit 3725
March 19, 2009